

AMENDED IN ASSEMBLY APRIL 10, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 1565

Introduced by Assembly Member Lieber

February 23, 2007

An act to ~~amend Section 4062.2 to repeal and add Section 4062.2~~ of the Labor Code, relating to workers' compensation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1565, as amended, Lieber. Workers' compensation: medical evaluations.

Existing law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, to compensate an employee for injuries sustained in the course of his or her employment. Existing law provides that whenever a comprehensive medical evaluation is required to resolve any dispute arising out of an injury or a claimed injury occurring on or after January 1, 2005, and the employee is represented by an attorney, the evaluation shall be obtained only in accordance with prescribed requirements for the conduct of the evaluation. *Existing law authorizes either of the parties to a dispute arising out of an injury or a claimed injury, if no agreement is reached regarding the selection of a physician to be a qualified medical evaluator to conduct a comprehensive medical evaluation, to request assignment of a 3-member panel of qualified medical evaluators. Existing law provides that if the parties have not agreed on a medical evaluator from the panel by the 10th day after assignment of the panel, each party may then strike one name from the panel, and the remaining qualified medical evaluator shall serve as the medical evaluator. Existing law further specifies that if a party fails to*

exercise the right to strike a name from the panel within 3 working days of gaining the right to do so, the other party may select any physician who remains on the panel to serve as the medical evaluator.

~~This bill would make a technical, nonsubstantive change to those provisions.~~

This bill would authorize, if a party fails to exercise the right to strike a name from the panel within 3 working days of gaining the right to do so, the other party, in addition to selecting any physician who remains on the panel to serve as the medical evaluator, to also obtain a medical evaluation in a manner agreed upon by the parties.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 4062.2 of the Labor Code is repealed.*
2 ~~4062.2. (a) Whenever a comprehensive medical evaluation is~~
3 ~~required to resolve any dispute arising out of an injury or a claimed~~
4 ~~injury occurring on or after January 1, 2005, and the employee is~~
5 ~~represented by an attorney, the evaluation shall be obtained only~~
6 ~~as provided in this section.~~
7 ~~(b) If either party requests a medical evaluation pursuant to~~
8 ~~Section 4060, 4061, or 4062, either party may commence the~~
9 ~~selection process for an agreed medical evaluator by making a~~
10 ~~written request naming at least one proposed physician to be the~~
11 ~~evaluator. The parties shall seek agreement with the other party~~
12 ~~on the physician, who need not be a qualified medical evaluator,~~
13 ~~to prepare a report resolving the disputed issue. If no agreement~~
14 ~~is reached within 10 days of the first written proposal that names~~
15 ~~a proposed agreed medical evaluator, or any additional time not~~
16 ~~to exceed 20 days agreed to by the parties, either party may request~~
17 ~~the assignment of a three-member panel of qualified medical~~
18 ~~evaluators to conduct a comprehensive medical evaluation. The~~
19 ~~party submitting the request shall designate the specialty of the~~
20 ~~medical evaluator, the specialty of the medical evaluator requested~~
21 ~~by the other party if it has been made known to the party submitting~~
22 ~~the request, and the specialty of the treating physician. The party~~
23 ~~submitting the request form shall serve a copy of the request form~~
24 ~~on the other party.~~

1 ~~(e) Within 10 days of assignment of the panel by the~~
2 ~~administrative director, the parties shall confer and attempt to agree~~
3 ~~upon an agreed medical evaluator selected from the panel. If the~~
4 ~~parties have not agreed on a medical evaluator from the panel by~~
5 ~~the 10th day after assignment of the panel, each party may then~~
6 ~~strike one name from the panel. The remaining qualified medical~~
7 ~~evaluator shall serve as the medical evaluator. If a party fails to~~
8 ~~exercise the right to strike a name from the panel within three~~
9 ~~working days of gaining the right to do so, the other party may~~
10 ~~select any physician who remains on the panel to serve as the~~
11 ~~medical evaluator. The administrative director may prescribe the~~
12 ~~form, the manner, or both, by which the parties shall conduct the~~
13 ~~selection process.~~

14 ~~(d) The represented employee shall be responsible for arranging~~
15 ~~the appointment for the examination, but upon his or her failure~~
16 ~~to inform the employer of the appointment within 10 days after~~
17 ~~the medical evaluator has been selected, the employer may arrange~~
18 ~~the appointment and notify the employee of the arrangements.~~

19 ~~(e) If an employee has received a comprehensive medical-legal~~
20 ~~evaluation under this section, and he or she later ceases to be~~
21 ~~represented, he or she shall not be entitled to an additional~~
22 ~~evaluation.~~

23 SEC. 2. Section 4062.2 is added to the Labor Code, to read:

24 4062.2. (a) Whenever a comprehensive medical evaluation is
25 required to resolve any dispute arising out of an injury or a claimed
26 injury occurring on or after January 1, 2005, and the employee is
27 represented by an attorney, the evaluation shall be obtained only
28 as provided in this section.

29 (b) If either party requests a medical evaluation pursuant to
30 Section 4060, 4061, or 4062, either party may commence the
31 selection process for an agreed medical evaluator by making a
32 written request naming at least one proposed physician to be the
33 evaluator. The parties shall seek agreement with the other party
34 on the physician, who need not be a qualified medical evaluator,
35 to prepare a report resolving the disputed issue. If no agreement
36 is reached within 10 days of the first written proposal that names
37 a proposed agreed medical evaluator, or any additional time not
38 to exceed 20 days agreed to by the parties, either party may request
39 the assignment of a three-member panel of qualified medical
40 evaluators to conduct a comprehensive medical evaluation. The

1 party submitting the request shall designate the specialty of the
2 medical evaluator, the specialty of the medical evaluator requested
3 by the other party if it has been made known to the party submitting
4 the request, and the specialty of the treating physician. The party
5 submitting the request form shall serve a copy of the request form
6 on the other party.

7 (c) Within 10 days of assignment of the panel by the
8 administrative director, the parties shall confer and attempt to agree
9 upon an agreed medical evaluator selected from the panel. If the
10 parties have not agreed on a medical evaluator from the panel by
11 the 10th day after assignment of the panel, each party may then
12 strike one name from the panel. The remaining qualified medical
13 evaluator shall serve as the medical evaluator. If a party fails to
14 exercise the right to strike a name from the panel within three
15 working days of gaining the right to do so, the other party may
16 select any physician who remains on the panel to serve as the
17 medical evaluator, or a medical evaluation may be obtained in a
18 manner agreed upon by the parties. The administrative director
19 may prescribe the form, the manner, or both, by which the parties
20 shall conduct the selection process.

21 (d) The represented employee shall be responsible for arranging
22 the appointment for the examination, but upon his or her failure
23 to inform the employer of the appointment within 10 days after
24 the medical evaluator has been selected, the employer may arrange
25 the appointment and notify the employee of the arrangements.

26 (e) If an employee has received a comprehensive medical-legal
27 evaluation under this section, and he or she later ceases to be
28 represented, he or she shall not be entitled to an additional
29 evaluation.

30 ~~SECTION 1. Section 4062.2 of the Labor Code is amended to~~
31 ~~read:~~

32 ~~4062.2. (a) Whenever a comprehensive medical evaluation is~~
33 ~~required to resolve any dispute arising out of an injury or a claimed~~
34 ~~injury occurring on or after January 1, 2005, and the employee is~~
35 ~~represented by an attorney, the evaluation shall be obtained only~~
36 ~~as provided in this section.~~

37 ~~(b) If either party requests a medical evaluation pursuant to~~
38 ~~Section 4060, 4061, or 4062, either party may commence the~~
39 ~~selection process for an agreed medical evaluator by making a~~
40 ~~written request naming at least one proposed physician to be the~~

1 evaluator. The parties shall seek agreement with the other party
2 on the physician, who need not be a qualified medical evaluator;
3 to prepare a report resolving the disputed issue. If no agreement
4 is reached within 10 days of the first written proposal that names
5 a proposed agreed medical evaluator, or any additional time not
6 to exceed 20 days agreed to by the parties, either party may request
7 the assignment of a panel of three qualified medical evaluators to
8 conduct a comprehensive medical evaluation. The party submitting
9 the request shall designate the specialty of the medical evaluator;
10 the specialty of the medical evaluator requested by the other party
11 if it has been made known to the party submitting the request, and
12 the specialty of the treating physician. The party submitting the
13 request form shall serve a copy of the request form on the other
14 party.

15 (e) Within 10 days of assignment of the panel by the
16 administrative director, the parties shall confer and attempt to agree
17 upon an agreed medical evaluator selected from the panel. If the
18 parties have not agreed on a medical evaluator from the panel by
19 the 10th day after assignment of the panel, each party may then
20 strike one name from the panel. The remaining qualified medical
21 evaluator shall serve as the medical evaluator. If a party fails to
22 exercise the right to strike a name from the panel within three
23 working days of gaining the right to do so, the other party may
24 select any physician who remains on the panel to serve as the
25 medical evaluator. The administrative director may prescribe the
26 form, the manner, or both, by which the parties shall conduct the
27 selection process.

28 (d) The represented employee shall be responsible for arranging
29 the appointment for the examination, but upon his or her failure
30 to inform the employer of the appointment within 10 days after
31 the medical evaluator has been selected, the employer may arrange
32 the appointment and notify the employee of the arrangements.

33 (e) If an employee has received a comprehensive medical-legal
34 evaluation under this section, and he or she later ceases to be
35 represented, he or she shall not be entitled to an additional
36 evaluation.